

Application No.: 10/563,726
Response to Restriction Requirement

Docket No.: 62063(51588)

REMARKS

Claims 1-124 are pending. The Examiner has required restriction to one of the following:

- I. Claims 1-17, drawn to a pharmaceutical composition of HSP or HSPLP of SEQ ID NO:3, classified in class 530, subclass 350.
- II. Claims 1-17, drawn to a pharmaceutical composition of HSP or HSPLP of SEQ ID NO:4, classified in class 530, subclass 350.
- III. Claims 1-17, drawn to a pharmaceutical composition of HSP or HSPLP of SEQ ID NO:5, classified in class 530, subclass 350.
- III. Claims 1-17, drawn to a pharmaceutical composition of HSP or HSPLP of SEQ ID NO:6, classified in class 530, subclass 350.
- IV. Claims 1-17, drawn to a pharmaceutical composition of HSP or HSPLP of SEQ ID NO:7, classified in class 530, subclass 350.
- V. Claims 18-28, drawn to pharmaceutical composition of LPLP, classified in class 530, subclass 350.
- VI. Claims 29-44, drawn to a method of promoting fugetaxis by administering SEQ ID NO:3, classified in class 514, subclass 12.
- VII. Claims 29-44, drawn to a method of promoting fugetaxis by administering SEQ ID NO:4, classified in class 514, subclass 12.
- VIII. Claims 29-44, drawn to a method of promoting fugetaxis by administering SEQ ID NO:5, classified in class 514, subclass 12.
- IX. Claims 29-44, drawn to method of promoting fugetaxis by administering SEQ ID NO:6, classified in class 514, subclass 12.
- X. Claims 29-44, drawn to method of promoting fugetaxis by administering SEQ ID NO:7, classified in class 514, subclass 12.
- XI. Claims 29-44, drawn to method of promoting fugetaxis by administering SEQ ID NO:8, classified in class 514, subclass 12.
- XII. Claims 45-69, drawn to a pharmaceutical composition where the anti-fugetactic agent binds to SEQ ID NO:1, classified in class 530, subclass 350.

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- XIII. Claims 45-69, drawn to a pharmaceutical composition where the anti-fugetactic agent binds to SEQ ID NO:2, classified in class 530, subclass 350.
- XIV. Claims 45-69, drawn to a pharmaceutical composition where the anti-fugetactic agent binds to SEQ ID NO:3, classified in class 530, subclass 350.
- XV. Claims 45-69, drawn to a pharmaceutical composition where the anti-fugetactic agent binds to SEQ ID NO:4, classified in class 530, subclass 350.
- XVI. Claims 45-69, drawn to a pharmaceutical composition where the anti-fugetactic agent binds to SEQ ID NO:5, classified in class 530, subclass 350.
- XVII. Claims 45-69, drawn to a pharmaceutical composition where the anti-fugetactic agent binds to SEQ ID NO:6, classified in class 530, subclass 350.
- XVIII. Claims 45-69, drawn to a pharmaceutical composition where the anti-fugetactic agent binds to SEQ ID NO:7, classified in class 530, subclass 350.
- XIX. Claims 45-69, drawn to a pharmaceutical composition where the anti-fugetactic agent binds to SEQ ID NO:8, classified in class 530, subclass 350.
- XX. Claims 70-77, drawn to a method of eliciting or enhancing an immune response, classified in class 514, subclass 12.
- XXI. Claims 78-81, drawn to method of screening for an anti-fugetactic agent, classified in class 514, subclass 12.
- XXII. Claims 82-105, drawn to a composition of an isolate from a thymoma, classified in class 514m subclass 12.
- XXIII. Claims 106-109, drawn to method of producing a polypeptide, classified in class 530, subclass 350.
- XXIV. Claims 110-120, drawn to a polypeptide having fugetactic activity, classified in class 530, subclass 350.
- XXV. Claims 121-124, drawn to a method of screening for an anti-fugetactic agent, classified in class 514, subclass 12.

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Applicants elect Group VI, comprising of claims 29-44 and SEQ ID NO:3 (human HSP 90-alpha), with traverse. Reconsideration and rejoinder of Group VI and Group I is respectfully requested.

Applicants assert that the subject matter of Groups VI and I represent different embodiments of a single inventive concept for which a single patent should issue. The claims of these two groups represent an intricate web of knowledge, continuity of effort, and consequences of a single invention, which merit examination in a single application. The unifying concept of the claimed embodiments of the invention is the promotion of fugetaxis using HSP or HSPLP of SEQ ID NO:3.

Notwithstanding the foregoing, Applicants submit that a sufficient search and examination with respect to the subject matter of the claims of Groups VI and I can be made without serious burden. Searching the additional inventions of Group I must constitute an undue burden on the examiner for restriction to be permissible. MPEP § 803. The MPEP directs the Examiner to search and examine an entire application "[i]f the search and examination of an entire application can be made without serious burden, ... even though it includes claims to distinct or independent inventions." *Id.*

Applicants respectfully submit that it would not place an unnecessary burden on the Examiner to search and examine Group VI and Group I together, as a search for the methods of Group VI would necessarily encompass the compositions of Group I, in particular because the claims of both groups are directed to SEQ ID NO: 3 (human HSP 90-alpha). This is especially true given the powerful search engines and data bases at the Examiner's disposal.

Moreover, Applicants should be entitled to prosecute a composition of matter and at least one method of using the composition of matter in a single patent application.

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Accordingly, Applicants respectfully request reconsideration and withdrawal of the Restriction Requirement and earnestly solicit an early examination on the merits. If a telephone conversation with Applicants' representative would be helpful to resolve any remaining issues or otherwise expedite prosecution, Applicants urge the Examiner to contact the undersigned at the telephone number listed below.

Dated: September 20, 2007

Respectfully submitted,

By


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